

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5216**

A bill to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act." by amending sections 2, 33, 770, 770a, 771, 773, 794a, 795, and 971 (MCL 168.2, 168.33, 168.770, 168.770a, 168.771, 168.773, 168.794a, 168.795, and 168.971), section 2 as amended by 1999 PA 216, section 33 as amended by 1996 PA 583, section 794a as amended by 1995 PA 261, section 795 as amended by 2001 PA 269, and section 971 as amended by 1976 PA 66, and by adding section 37; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. As used in this act:

2           (a) "Business day" or "secular day" means a day that is not  
3 a Saturday, Sunday, or legal holiday.

4           (b) "Election" means ~~any~~ AN election or primary election  
5 ~~—~~ at which the electors of this state or of ~~any~~ A subdivision  
6 of this state choose or nominate by ballot AN INDIVIDUAL FOR

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1 public ~~officials~~ OFFICE or decide ~~any public~~ A BALLOT  
2 question lawfully submitted to them.

3 (C) "NAME THAT WAS FORMALLY CHANGED" MEANS A NAME CHANGED BY  
4 A PROCEEDING UNDER CHAPTER XI OF THE PROBATE CODE OF 1939, 1939  
5 PA 288, MCL 711.1 TO 711.3, OR FORMER 1915 PA 314, OR THROUGH A  
6 SIMILAR, STATUTORILY SANCTIONED PROCEDURE UNDER THE LAW OF  
7 ANOTHER STATE OR COUNTRY.

8 (D) "UNIFORM VOTING SYSTEM" MEANS THE VOTING SYSTEM THAT IS  
9 USED AT ALL ELECTIONS IN EVERY ELECTION PRECINCT THROUGHOUT THE  
10 STATE.

Sec. 33. (1) The director of elections shall conduct training schools throughout this state preceding the general November election, and preceding such other elections as the director considers advisable, for county clerks and their representatives with respect to the conducting of elections in accordance with the election laws. INCLUDED IN THIS TRAINING SHALL BE INSTRUCTION ON THE UNIFORM VOTING SYSTEM. In case any county clerk shall fail to conduct in his or her county a training school for election boards within the county, the director of elections shall conduct such training school, the cost of the training school to be charged as an obligation of the county.

(2) The director of elections shall train all county, city, and township clerks who are involved in the training of precinct inspectors. The training shall include team training and monitoring of their performance as trainers.

(3) The director of elections shall conduct all precinct inspector training in counties where the clerk has not been accredited to conduct the training schools.

11 SEC. 37. (1) THE SECRETARY OF STATE SHALL SELECT A UNIFORM  
12 VOTING SYSTEM UNDER THE PROVISIONS OF THIS SECTION. THE SECRE-  
13 TARY OF STATE SHALL CONVENE AN ADVISORY COMMITTEE ON THE SELEC-  
14 TION OF THE UNIFORM VOTING SYSTEM, WHOSE MEMBERSHIP REPRESENTS  
15 COUNTY, CITY, AND TOWNSHIP ELECTION OFFICIALS AND OTHER RELEVANT  
16 ORGANIZATIONS. IN ADDITION, THE SPEAKER AND MINORITY LEADER OF  
17 THE HOUSE OF REPRESENTATIVES AND THE MAJORITY AND MINORITY LEAD-  
18 ERS OF THE SENATE MAY EACH APPOINT 1 ADVISORY COMMITTEE MEMBER.

19 (2) THE SECRETARY OF STATE MAY CONDUCT TESTS OF A VOTING  
20 SYSTEM IN ORDER TO SELECT THE UNIFORM VOTING SYSTEM. THE SECRE-  
21 TARY OF STATE SHALL NOT CONSIDER A VOTING SYSTEM FOR SELECTION AS  
22 THE UNIFORM VOTING SYSTEM UNLESS THE VOTING SYSTEM IS APPROVED

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23 AND CERTIFIED AS PROVIDED IN SECTION 795A. AT THE SECRETARY OF

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24 STATE'S REQUEST, THE BOARD OF STATE CANVASSERS SHALL PERFORM THE  
25 APPROVAL AND CERTIFICATION REVIEW, AS PROVIDED IN SECTION 795A,  
26 OF A VOTING SYSTEM THAT THE SECRETARY OF STATE WANTS TO CONSIDER  
27 FOR SELECTION AS THE UNIFORM VOTING SYSTEM.

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1           (3) WHEN THE UNIFORM VOTING SYSTEM IS SELECTED OR AT AN  
2 EARLIER TIME THAT THE SECRETARY OF STATE CONSIDERS ADVISABLE, THE  
3 SECRETARY OF STATE SHALL NOTIFY EACH COUNTY, CITY, VILLAGE, TOWN-  
4 SHIP, AND SCHOOL DISTRICT ABOUT THE SELECTION OR IMPENDING SELEC-  
5 TION OF THE UNIFORM VOTING SYSTEM. A GOVERNMENTAL UNIT THAT IS  
6 NOTIFIED UNDER THIS SUBSECTION SHALL NOT PURCHASE OR ENTER INTO A  
7 CONTRACT TO PURCHASE A VOTING SYSTEM OTHER THAN THE UNIFORM  
8 VOTING SYSTEM AFTER RECEIPT OF THE NOTICE.

9           (4) AFTER SELECTION OF THE UNIFORM VOTING SYSTEM, THE SECRE-  
10 TARY OF STATE SHALL ESTABLISH A SCHEDULE FOR ACQUISITION AND  
11 IMPLEMENTATION OF THE UNIFORM VOTING SYSTEM THROUGHOUT THE  
12 STATE. THE SECRETARY OF STATE MAY DEVISE A SCHEDULE THAT INSTI-  
13 TUTES THE UNIFORM VOTING SYSTEM OVER SEVERAL ELECTION CYCLES.  
14 THE SECRETARY OF STATE SHALL WIDELY PUBLICIZE THE SCHEDULE AND  
15 CHANGES TO THE SCHEDULE. IF, HOWEVER, A JURISDICTION HAS ACQUIRED A NEW  
VOTING SYSTEM WITHIN 8 YEARS BEFORE THE JURISDICTION RECEIVES NOTICE FROM  
THE SECRETARY OF STATE UNDER SUBSECTION (3). THAT JURISDICTION SHALL NOT  
BE REQUIRED TO ACQUIRE AND USE THE UNIFORM VOTING SYSTEM UNTIL THE  
EXPIRATION OF 10 YEARS AFTER THE DATE OF THE ORIGINAL PURCHASE OF THE  
EQUIPMENT.

16           (5) IF, AFTER SELECTION OF THE UNIFORM VOTING SYSTEM, THE  
17 SECRETARY OF STATE DETERMINES THAT THE UNIFORM VOTING SYSTEM NO  
18 LONGER SERVES THE WELFARE OF THE VOTERS OR HAS BECOME OUT OF DATE  
19 IN REGARDS TO VOTING SYSTEM TECHNOLOGY, THE SECRETARY OF STATE  
20 MAY REPEAT THE PROCESS FOR SELECTING THE UNIFORM VOTING SYSTEM  
21 AUTHORIZED UNDER THIS SECTION.

22           (6) THIS SECTION DOES NOT APPLY UNTIL MONEY IS APPROPRIATED  
23 FOR THE PURPOSE OF SELECTING, ACQUIRING, AND IMPLEMENTING THE  
24 UNIFORM VOTING SYSTEM. IF FEDERAL MONEY BECOMES AVAILABLE FOR  
25 THE PURPOSES DESCRIBED IN THIS SECTION, THE SECRETARY OF STATE  
26 SHALL, AND THE LEGISLATURE INTENDS TO, TAKE THE STEPS NECESSARY

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1 TO QUALIFY FOR AND APPROPRIATE THAT MONEY FOR THE PURPOSES  
2 DESCRIBED IN THIS SECTION.

3 (7) IF AN APPROPRIATION OF MONEY FOR THE PURPOSES DESCRIBED  
4 IN THIS SECTION IS NOT SIGNED INTO LAW BEFORE JANUARY 1, 2006,  
5 THIS SECTION IS REPEALED ON JANUARY 1, 2006.

6 Sec. 770. (1) ~~At~~ UNLESS THE SECRETARY OF STATE IMPLEMENTS  
7 THE UNIFORM VOTING SYSTEM IN A PRECINCT, AT all elections  
8 ~~hereafter~~ held in this state, ballots or votes may be cast,  
9 registered, recorded, and counted by means of voting machines, as  
10 provided in this chapter.

11 (2) The governing body of ~~any~~ A governmental unit in this  
12 state may contract with the governing body of ~~any other~~ ANOTHER  
13 governmental unit in this state with regard to the use of voting  
14 machines owned by either of the contracting units.

15 Sec. 770a. ~~The~~ UNTIL THE SECRETARY OF STATE IMPLEMENTS  
16 THE UNIFORM VOTING SYSTEM, THE secretary of state may permit the  
17 use of any type of voting device for election purposes in any  
18 election upon petition for use of the device by the legislative  
19 body of the political subdivision desiring to use any new  
20 device. Permission granted by the secretary of state shall be  
21 valid for 1 election only. Local legislative body includes  
22 school boards. Upon authorizing the use of the device, the sec-  
23 retary of state shall prepare detailed rules as to election pro-  
24 cedures when the device is used. The rules may include prescrib-  
25 ing the counting of votes and the making of returns by persons  
26 other than precinct election inspectors. No rule shall be made  
27 which provides for reducing the secrecy of the ballot. In

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1 partisan general elections, candidates shall be listed under a  
2 party heading. Rules ~~so~~ promulgated shall be consistent with  
3 the election law.

4 Sec. 771. ~~Hereafter, the board of supervisors of any~~  
5 ~~county~~ UNTIL NOTIFIED BY THE SECRETARY OF STATE UNDER SECTION  
6 37, A COUNTY BOARD OF COMMISSIONERS, the legislative body of  
7 ~~any~~ AN incorporated city or village, or the township board of  
8 ~~any~~ A township in the state of Michigan ~~,~~ may, by a majority  
9 vote, authorize, purchase, and order the use of ~~any~~ A thor-  
10 oughly tested or reliable voting machine in ~~any~~ 1 or more  
11 voting precincts within ~~said~~ THE county, city, village, or  
12 township until otherwise ordered by the officers adopting the  
13 same.

14 Sec. 773. (1) ~~The board of supervisors of any county~~ A  
15 COUNTY BOARD OF COMMISSIONERS, the ~~common council~~ LEGISLATIVE  
16 BODY of ~~any~~ A city or village, or the township board of ~~any~~ A  
17 township adopting a voting machine OR IMPLEMENTING THE UNIFORM  
18 VOTING SYSTEM shall, as soon as practicable, ~~thereafter,~~ pro-  
19 vide for each election district a voting machine OR UNIFORM  
20 VOTING SYSTEM in complete working order. ~~, and the~~ THE county,  
21 city, township, or village clerk shall ~~thereafter~~ keep the  
22 ~~same~~ VOTING MACHINE OR VOTING SYSTEM in repair and shall have  
23 the custody ~~thereof, and~~ OF THE MACHINE OR SYSTEM. THE CLERK  
24 HAS CUSTODY of the furniture and equipment of the polling place  
25 when not in use at an election.

26 (2) If it ~~shall be~~ IS impracticable to supply each and  
27 every election district with a voting machine at any election

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1 following ~~such~~ THE adoption, as many may be supplied as it is  
2 practicable to procure, and the ~~same~~ VOTING MACHINES may be  
3 used in ~~such~~ THE election district or districts within the  
4 county, city, village, or township as the officers adopting  
5 ~~same~~ THEM may determine. More than 1 voting machine may be  
6 provided and used in ~~any~~ AN election precinct.

7       Sec. 794a. (1) Subject to this section, the board of com-  
8 missioners of a county, the legislative body of a city or vil-  
9 lage, the township board of a township, or the school board of a  
10 school district, by a majority vote, may authorize, acquire by  
11 purchase, lease, or otherwise, adopt, experiment with, or abandon  
12 an electronic voting system approved for use in this state ~~—~~ in  
13 an election, and may use the system in all or a part of the pre-  
14 cincts within its boundaries, or in combination with other  
15 approved voting systems.

16       (2) A new electronic voting system shall not be used at a  
17 general election in a county, city, or township unless, in addi-  
18 tion to the other requirements of this act, all of the following  
19 requirements are met:

20       (a) The county, city, or township purchases or otherwise  
21 acquires the electronic voting system 6 months or more before the  
22 next general election to be held in that county, city, or  
23 township.

24       (b) The county, city, or township uses the electronic voting  
25 system at a primary, special, or other local election held in the  
26 county, city, or township before the general election.

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1 (3) The appropriate board of election commissioners shall  
2 provide for an accuracy test of an electronic voting system in  
3 the manner prescribed in rules promulgated by the secretary of  
4 state. The secretary of state shall prescribe procedures for  
5 preparing test decks and conducting accuracy tests for electronic  
6 voting systems in this state.

7 (4) Before an election held in a county, city, township,  
8 village, or school district, the secretary of state may randomly  
9 select and test for accuracy an electronic voting system to be  
10 used by the county, city, township, village, or school district  
11 in that election. The secretary of state shall use the test  
12 decks prepared by the secretary of state to conduct the random  
13 tests allowed under this subsection.

14 (5) A board of election commissioners shall not use in an  
15 election an electronic voting system that has failed the most  
16 recent accuracy test performed on that voting system under this  
17 act. An electronic voting system may be used after any necessary  
18 corrections are made and an accuracy test is passed on the  
19 system.

20 (6) SUBSECTION (1) DOES NOT APPLY TO A COUNTY, CITY,  
21 VILLAGE, TOWNSHIP, OR SCHOOL DISTRICT AFTER THE COUNTY, CITY,  
22 VILLAGE, TOWNSHIP, OR SCHOOL DISTRICT RECEIVES THE SECRETARY OF  
23 STATE'S NOTICE UNDER SECTION 37. SUBSECTION (2) SHALL APPLY TO A COUNTY,  
CITY, VILLAGE, TOWNSHIP, OR SCHOOL DISTRICT AFTER IT RECEIVES THE  
SECRETARY OF STATE'S NOTICE UNDER SECTION 37 IF, AT THE TIME OF THE  
NOTICE, THE COUNTY, CITY, VILLAGE, TOWNSHIP, OR SCHOOL DISTRICT IS USING  
AN ELECTRONIC VOTING SYSTEM THAT IS THE SAME TYPE AS THE UNIFORM VOTING  
SYSTEM.

Sec. 795. (1) An electronic voting system acquired or used under  
sections 794 to 799a shall meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who  
receive assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and  
offices for whom and for which the elector is lawfully entitled to vote;  
to vote for as many persons for an office as the elector is entitled to  
vote for; and to vote for or against any question upon which the elector  
is entitled to vote. Except as otherwise provided in this subdivision,

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the electronic tabulating equipment shall reject all choices recorded on  
the elector's ballot for an office or a question if the number of choices



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exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question LOCATED AT EACH POLLING PLACE AND shall be programmed to reject a ballot containing that type of an error. IF A CHOICE ON A BALLOT IS REJECTED AS PROVIDED IN THIS SUBDIVISION. AN ELECTOR SHALL BE GIVEN THE OPPORTUNITY TO HAVE THAT BALLOT CONSIDERED A SPOILED BALLOT AND TO VOTE ANOTHER BALLOT.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party shall be LOCATED AT EACH POLLING PLACE AND programmed to reject a ballot containing that type of an error. IF A CHOICE ON A BALLOT IS REJECTED AS PROVIDED IN THIS SUBDIVISION. AN ELECTOR SHALL BE GIVEN THE OPPORTUNITY TO HAVE THAT BALLOT CONSIDERED A SPOILED BALLOT AND TO VOTE ANOTHER BALLOT.

(e) Prevent an elector from voting for the same person more than once for the same office.

(f) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment shall be programmed to reject a ballot on which no valid vote is cast.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(l) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls.

Sec. 971. (1) If the recall was successful, the officer with whom the recall petition was filed shall, within 5 days after receiving the certification, submit to the county election scheduling committee a proposed date for a special election to be held within 60 days for the filling of the vacancy. If any primary or election is to be held in that electoral district within 4 months after the certification and at a time as will permit preparation for the election by election officials as provided by law, the election to fill the vacancy shall be held concurrently with that primary or election. The same provisions made in section 964 for calling and conducting of the recall election ~~shall~~ govern in the calling and conducting of the election to fill the vacancy created, except as otherwise provided in this section.

(2) If a petition is filed under section 959, the officer with whom

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the petition is filed shall not submit a proposed date to the county election scheduling committee, but shall call the special election subject to the same time limitations set out in this section.

(3) IF THE GOVERNOR APPOINTS A REVIEW TEAM UNDER THE LOCAL GOVERNMENT FISCAL RESPONSIBILITY ACT, 1990 PA 72, MCL 141.1201 TO 141.1291, TO PERFORM THE FUNCTIONS PRESCRIBED IN THAT ACT RELATIVE TO A

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CITY, TOWNSHIP, OR VILLAGE AND AN ELECTED OFFICIAL OF THE CITY, TOWNSHIP, OR VILLAGE WAS THE SUBJECT OF A SUCCESSFUL RECALL. THE OFFICER WITH WHOM THE RECALL PETITION WAS FILED DOES NOT HAVE THE AUTHORITY TO PROPOSE A DATE FOR A SPECIAL ELECTION. IF THE REVIEW TEAM DESCRIBED IN THIS SUBSECTION IS APPOINTED AFTER THE OFFICER SUBMITS A PROPOSED SPECIAL ELECTION DATE OR THE COUNTY ELECTION SCHEDULING COMMITTEE SCHEDULES THE SPECIAL ELECTION AS REQUIRED BY SUBSECTION (1). BUT BEFORE THE ELECTION IS HELD. THE OFFICER'S OR COUNTY ELECTION SCHEDULING COMMITTEE'S ACTION BECOMES VOID WHEN THE REVIEW TEAM IS APPOINTED. WITHIN 5 DAYS AFTER THE REVIEW TEAM DESCRIBED IN THIS SUBSECTION REPORTS ITS FINDINGS TO THE GOVERNOR AS REQUIRED BY SECTION 14 OF THE LOCAL GOVERNMENT FISCAL RESPONSIBILITY ACT, 1990 PA 72, MCL 141.1214. THE REVIEW TEAM SHALL SUBMIT TO THE COUNTY ELECTION SCHEDULING COMMITTEE A PROPOSED DATE FOR THE SPECIAL ELECTION. A SPECIAL ELECTION SCHEDULED UNDER THIS SUBSECTION IS SUBJECT TO ALL OF THE OTHER PROVISIONS OF SUBSECTION (1).

- 24        Enacting section 1. This amendatory act does not take  
25 effect unless House Bill No. 5335 of the 91st Legislature is  
26 enacted into law.